

**RECENT WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS
BOARD DECISIONS (January 13, 2005 – May 1, 2005)**

CRITICAL AREAS – ADAPTIVE MANAGEMENT

...the Board also finds that the County's monitoring and adaptive management program does not ensure the protection of the existing functions and values of FWHCAs in ongoing agricultural lands as required by RCW 36.70A.040, RCW 36.70A.060, and RCW 36.70A.172. The County has adopted minimal protective regulations in ongoing agricultural lands which must be buttressed with an adaptive management program to ensure that protection is actually provided. However, the County's program fails to provide the needed adaptive management to ensure that its protection measures are, in fact, protecting FWHCAs. Fundamentally, the program lacks benchmarks and triggers for corrective action and the ability to detect the cause of any deterioration in the existing functions and values of FWHCAs in a timely way so that the current protection measures could be adjusted to provide adequate protection of fish habitat.

Swinomish Indian Tribal Community v. Skagit County, Case No. 02-2-0012c,
(Compliance Order – Adaptive Management, January 13, 2005)

CRITICAL AREAS – NOTICE OF CONSULTATION WITH SCIENTIFIC EXPERT

THE BOARD hereby gives notice to all parties that it has consulted with a scientific expert in reaching its decision with regard to critical areas in this case. The Board retained Oscar Soule, Ph.D., an expert in environmental studies, to review the Board's decision with respect to the principles of adaptive management articulated in the decision.

Swinomish Indian Tribal Community v. Skagit County, Case No. 02-2-0012c,
(Compliance Order – Adaptive Management, January 13, 2005)

JURISDICTION

In this case, the Board decides that the amendments to the City's WSP are not within the subject-matter jurisdiction of the Board. They do not amend the comprehensive plan, either directly or by reference. While some local governments use water system plans to meet requirements of the Growth Management Act (GMA), there is no express requirement in the GMA for a water system plan.

Heikila et al. v. Winlock and Cardinal FG Company, Case No. 04-2-0020c (Final Decision and Order, April 15, 2005)

The commitment by the City in that resolution to provide municipal water and sewerage services to users that meet certain conditions was not adopted as an amendment to Napavine's Comprehensive Plan or its development regulations. Nor does any party offer evidence that the resolution constitutes a *de facto* amendment of the comprehensive plan; ...

Since the Board's jurisdiction is limited by statute to comprehensive plans, development regulations, and amendments to them, the Board does not have jurisdiction over the challenged resolution. RCW 36.70A.280; 36.70A.290.

Harader and Grover et al. v. the City of Napavine, Case No.04-2-0017c (February 2, 2005)

MOTIONS

With the exception of the motion to dismiss a portion of Issue No. 9, none of these motions are based upon grounds of jurisdiction, timeliness, or standing. Normally, the Board will not decide substantive issues on motion unless, in the judgment of the Board, an early ruling can be made on limited issues without impacting a full and fair consideration of the remaining issues. In this case, the issues are complex and interwoven; thus, they are inappropriate for early decision.

OBCT, et al. v. Lewis County and Cardinal FG Company, Case No. 04-2-0041c (Decision and Order on Motions, February 8, 2005)

STANDING

While Petitioner submitted evidence that it is a registered non-profit corporation,... it need not be a registered non-profit corporation to proceed under this section of the GMA. First as 1000 Friends of Washington and later under the new name of Futurewise, Petitioner clearly identified the issues it wished the County to address and made it plain that it was speaking as an organization rather than as an individual. Petitioner provided evidence that it submitted written comments, attended and testified at a Planning Commission meeting and at a public hearing before the Board of County Commissioners; and that in each instance the speaker and/or writer identified himself as speaking for Futurewise, rather than as an individual. ...This is sufficient to qualify the Petitioner as a "person" who may bring this Petition for Review

1000 Friends of Washington v. Thurston County, Case No. 05-2-0002 (Order on Motions to Dismiss)(April 21, 2005)

URBAN SERVICES

The Board also decides that RCW 36.70A.110(4) does not preclude the City from providing municipal water service to another UGA. The City intends to provide water service to the newly approved major industrial development (MID) urban growth area (UGA) site approved by Lewis County for a new Cardinal float glass facility. To the extent that the City comprehensive plan amendments allow an extension of water service to this MID UGA, they are compliant with the GMA.

Heikila et al. v. Winlock and Cardinal FG Company, Case No. 04-2-0020c (Final Decision and Order, April 15, 2005)

